

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STERLING SUFFOLK RACECOURSE, LLC,

Plaintiff,

v.

WYNN RESORTS, LTD; WYNN MA, LLC;
STEPHEN WYNN; KIMMARIE SINATRA;
MATTHEW MADDOX; and FBT EVERETT
REALTY, LLC;

Defendants.

CIVIL ACTION

Case No. 1:18-cv-11963-PBS

ORAL ARGUMENT REQUESTED

**MATTHEW MADDOX's MOTION TO DISMISS
THE FIRST AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 12(b)(6), defendant Matthew Maddox moves to dismiss the First Amended Complaint's three proffered RICO claims because Sterling Suffolk Racecourse, LLC ("SSR") has failed to particularize any participation by Mr. Maddox in any predicate acts in violation of RICO. As a consequence, SSR's three pendent claims—all arising under Massachusetts law—also should be dismissed because, once this Court dismisses the RICO claims, there is no reason to retain jurisdiction over the state-law claims. "A surerfooted reading of applicable state law can be obtained" in Massachusetts state court, and as to all of SSR's state-law claims, "state issues predominate in terms of proof..." *Marquez Velez v. David M. Puerto Rico Graphic Supplies, Inc.*, 622 F.Supp. 568, 572 (D.P.R. Oct. 4, 1985); *see also Brown v. Ferrara*, 2011 US Dist. Lexis 46337, *16 (D. Me. April 28, 2011); *Rodriguez v. Doral Mortgage Corp.*, 57 F.3d 1168, 1177 (1st Cir. 1995).

In support of his Motion to Dismiss, Mr. Maddox relies on the accompanying Memorandum of Law and exhibits. Mr. Maddox also incorporates by reference the arguments set

forth in the co-defendants' memoranda in support, including in particular that SSR has failed to allege any predicate acts of racketeering or viable "enterprise," and has not sufficiently alleged any violation of the Massachusetts consumer protection statute, G.L. c. 93A, any elements of tortious interference with a business relationship, or any elements of tortious interference with a contract.

REQUEST FOR ORAL ARGUMENT

Mr. Maddox respectfully requests oral argument to assist this Court in deciding this Motion to Dismiss.

Respectfully Submitted,

MATTHEW MADDOX

By his counsel,

/s/ Peter A. Biagetti

Peter A. Biagetti, BBO # 042310

Samuel M. Starr, BBO #477353

Mintz, Levin, Cohn, Ferris,

Glovsky and Popeo, P.C.

One Financial Center

Boston, MA 02111

Phone: 617.542.6000

Fax: 617.542.2241

PAbiagetti@mintz.com

TSarr@mintz.com

and

Mark Holscher (admitted *pro hac vice*)

Kirkland & Ellis LLP

333 South Hope Street

Los Angeles, California 90071

Phone: 213-680-8190

Fax: 213-808-8097

Mark.holscher@kirkland.com

March 8, 2018

LOCAL RULE 7.1(A)(2) CERTIFICATION

I certify that counsel for Defendant has conferred with counsel for Plaintiff in a good faith attempt to resolve or narrow the issues raised by this motion.

/s/ Peter A. Biagetti
Peter A. Biagetti

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on March 8, 2018.

/s/ Peter A. Biagetti
Peter A. Biagetti

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